

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

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|--------------------------|---|---------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| |) | |
| v |) | 3:05-CR-234-A |
| |) | |
| |) | |
| TYRONE WHITE |) | |

ORDER ON MOTIONS

For good cause pursuant to the representations of counsel and advice of the undersigned at the initial pretrial conference convened with counsel of record on November 21, 2005, it is **ORDERED** as follows:

1. *Defendant's Renewed Motion to Modify Terms of Release* (Doc. 54, Nov. 18, 2005) is hereby **set for hearing at 1:30 p.m. on November 22, 2005**. Any Motion for Detention filed by the United States prior to the scheduled hearing shall be heard at the same time, and the United States Attorney is instructed to confer with the assigned probation officer, prior to filing any detention motion, about the feasibility of home detention and other alternatives which will reasonably satisfy expressed concerns of the United States while also accommodating the defendant's need to secure gainful employment immediately.

2. Atty. Allison H. Highley is DIRECTED to *supplement not later than November 23, 2005*, her *Motion Pro Hac Vice* (Doc. 41, November 15, 2005) to demonstrate her compliance with Local Rule 83.1, which requires, in pertinent part:

Any attorney who is not a member of the Bar of this Court but who is admitted to practice before the United States District Court for the district in which such person resides or regularly practices law, may, upon request, be admitted pro hac vice by an order of any district judge, magistrate judge, or bankruptcy judge of this Court.

Thereafter, the *Motion* shall be submitted for determination by the assigned trial judge, Sr. District Judge Harold W. Albritton.

3. *Defendant's following-styled motions are all DENIED AS MOOTED by the superseding indictment* filed November 15, 2005, **without prejudice for Defendant's refile by November 30, 2005, of similar motions directed to the superseding indictments, provided that** (a) such motions are timely with respect to the substantive claim and requested remedy and also properly supported; and (b) discovery motions are filed separately and not included in the text of the substantive motion as a "request for discovery":

Motion to Dismiss Indictment for Systematic Underrepresentation of Black Americans in Grand Jury (Doc. 28, Oct. 28, 2005);

Motion Challenging the Composition of the Petit Jury for Systematic Underrepresentation of Black Americans (Doc. 29, Oct. 28, 2005; and

Motion for Inspection and Copying of Jury System Records (Doc.30, Oct. 28, 2005)

As indicated in previous orders, the Clerk docketed as #31 a duplicate of the Doc. 30 motion, and she is instructed hereby to terminate the Doc.31 motion.

4. Defendant's oral motion to amend his following-styled motions so that each is directed to the superseding indictment is hereby GRANTED:

Motion to Dismiss Indictment and for Sanctions (Doc. 39, Nov. 16, 2005)

Motion to Dismiss Multiplicative Count (Doc. 40, Nov. 16, 2005)

Motion for Protective Order (Doc. 48, Nov. 17, 2005)

Motion for Emergency Hearing (Doc. 49, Nov. 17, 2005)

5. Defendant's *Motion for Emergency Hearing* (Doc. 49, Nov. 17, 2005) is hereby

GRANTED to the extent that an **evidentiary hearing (with a court reporter)** is hereby set at **10:30 a.m. on November 30, 2005, in District Courtroom 4A, on Defendant's *Motion for Protective Order (Doc. 48)* and his *Motion to Dismiss Indictment and for Sanctions (Doc. 39)*.**

6. A **supplemental pretrial conference shall be convened promptly following the evidentiary hearing on November 30, 2005**, for the specific purpose of discussing (a) whether any supplemental discovery in response to the superseding indictment warrants additional time for the evaluation and filing of further pretrial motions, in which case a deadline shall be set in the new arraignment order; and (b) whether this case should be set for trial on the trial judge's next scheduled term commencing March 20, 2006, or on some other term.

7. The **United States shall file by November 30, 2005, any response in opposition to Defendant's *Motion to Dismiss Multiplicative Count (Doc. 40)*; the motion shall be submitted thereafter – without oral argument – for recommendation of the Magistrate Judge.**

8. The *United States' Motion for Protective Order (Doc. 34, Nov. 4, 2005)* and Defendant's response in opposition (*Doc. 56, Nov. 21, 2005*) shall be heard and determined by the assigned trial judge, Sr. District Judge W. Harold Albritton. The parties are advised that conflicts – including a felony term commencing December 5 – may not permit this motion to be heard within the next two weeks.

DONE this 22nd day of November, 2005.

/s/ Delores R. Boyd
DELORES R. BOYD
UNITED STATES MAGISTRATE JUDGE